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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,912	09/29/2003	Gouichi Nishizawa	81864.0025	2084

26021 7590 10/05/2006

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EXAMINER

SHEEHAN, JOHN P

ART UNIT PAPER NUMBER

1742

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/675,912

Applicant(s)

NISHIZAWA ET AL.

Examiner

John P. Sheehan

Art Unit

1742

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

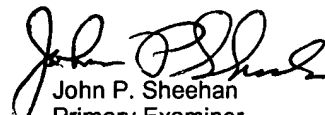
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 1-6.
Claim(s) objected to: _____.
Claim(s) rejected: 8, 9 and 11.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). July 19, 2006
13. ☒ Other: See Continuation Sheet.


John P. Sheehan
Primary Examiner
Art Unit: 1742

Continuation of 5. Applicant's reply has overcome the following rejection(s): The rejection of claims 1 to 6 in view of Yamamoto has been overcome in view of the combination of applicants' arguments submitted September 20, 2006 and April 14, 2006 (particularly page 7, the second paragraph).

Continuation of 11. does NOT place the application in condition for allowance because: applicants' argue that Yamamoto does not teach or suggest "...a grain boundary phase containing a higher content of R than said main phase...and said compound for magnet comprises a mixture of an alloy for formation of said main phase and an alloy for formation of said grain boundary phase, wherein Zr and Cu is contained in said alloy for formation of said main phase" as required by amendment independent claim 8. The Examiner is not persuaded. The limitation, "a grain boundary phase containing a higher content of R than said main phase", is not directed to the claims "compound" but rather is directed to the magnet produced from the claimed compound and does not lend patentability to the claimed compound. Regarding the limitation "and said compound for magnet comprises a mixture of an alloy for formation of said main phase and an alloy for formation of said grain boundary phase, wherein Zr and Cu is contained in said alloy for formation of said main phase", it is the Examiner's position that this language actually encompasses the Example alloys taught by Yamamoto. Applicants' arguments regarding the relative amount of Zr in the two alloys are not persuasive. The only language in claim 8 directed to the 2 alloys making up the claimed compound appears in the last 3 lines of claim 8. This section of claim 8 does not restrict the relative amount of Zr in the 2 alloys and therefore encompasses the 2 alloy mixture taught in each of Yamamoto's Examples 3-1 to 3-4.

Continuation of 13. Other: The information disclosure statement filed June 19, 2006 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of Chinese Patent Document No. 1,258,082 that is not in the English language. The remaining reference cited in this information disclosure statement has been considered by the Examiner.